A.F.R.

HIGH COURT OF CHHATTISGARH AT BILASPUR

Writ Petition No.3406/2005

Single Bench: Hon'ble Shri Justice S.R.Nayak, Chief Justice

PETITIONER : Gopal Prasad Dewangan, S/o Santosh Dewangan, Aged about 55 years Occupation - Bazar Contractor, Chandrapur, District Janjgir Champa (CG)

Versus

RESPONDENTS :
1. State of Chhattisgarh, Secretary, Panchayat and Social Welfare Department, D.K.S. Building Raipur (C.G.)
2. The Collector, Janjgir Champa, District Janjgir Champa (CG)
3. The Chief Executive Officer, Janapd Panchayat, Dabhara, District Janjgir Champa.
4. Gram Panchayat Chandrapur, Through its Secretary, Gram Panchayat Chandrapur, Janpad Panchayat Dabhara, District Janjgir Champa (CG)
5. Sarpanch, Gram Panchayat Chandrapur, Janpad Panchayat Dabhara, District Janjgir Champa (CG)

Shri Ashok Dubey, Counsel for the petitioner.

Shri Utkarsh Verma, Dy. Govt. Advocate for the State/respondents No.1 to 3.

Shri Vivek Ranjan Tiwari, Counsel for respondents No. 4 & 5.

ORAL ORDER

(Passed on 23.2.2006)

The following oral order of the Court was passed by S.R.NAYAK, C.J.

On 7.3.2005 the fifth respondent issued auction notification for auctioning the right of running the Weekly Bazars, Dainik Hatari (Daily market) and Cycle/Motor Cycle Stand coming under the jurisdiction of the Gram Panchayat Chandrapur for the year 2005-06 (1st April 2005 to 31st March 2006). The petitioner submitted his tender. The right was granted to the petitioner vide order dated 23.3.2005. As per the terms of the auction notification, the petitioner had to deposit a sum of Rs.77,000/- on 23.02.2005 itself. He was not in a position to deposit that sum of money and therefore, he sought time. The fifth respondent initially vide order dated 29.06.2005 extended the time by one week from the date and thereafter again he extended time for a further period of one week on 3.7.2005. In terms of the above extensions of time granted by the fifth respondent, the petitioner was granted time to deposit sum of Rs.77,000/- before 10th July, 2005, but, the fifth respondent cancelled the right to run Weekly Bazar, Dainik Hatari (Daily market) and Cycle/Motor Cycle Stand vide his order dated 10th July 2005 marked as Annexure P-10. Being aggrieved by the above action of the fifth respondent, this petition is filed.

2. I have heard learned counsel for the parties. There is an error apparent on the face of the record of fifth respondent in cancelling the right awarded to the petitioner. I say this because since the fifth respondent on 3.7.2005 had granted a week's time to the petitioner to deposit the sum of Rs.77,000/-, he ought not to have cancelled the contract even before the expiry of the time granted by him. In this regard, another attendant circumstance needs to be noticed. 10th July 2005 was admittedly Sunday and the petitioner could not have deposited the sum of money in the Gram Panchayat. According to the petitioner, he wanted to pay sum of Rs.77,000/- on

11th July, the next working day, but, by that time the contract was already terminated by the fifth respondent. In that view of the matter, I allow the writ petition quashing the impugned order Annexure P-10, dated 10.7.2005 passed by the fifth respondent and I direct the fifth respondent to allow the petitioner to run the Weekly Bazar, Dainik Hatari (Daily market) and Cycle/Motor Cycle Stand for the year 2005-06 (1st April 2005 to 31st March 2006) as per the contract awarded to him vide order dated 23.3.2005 provided the petitioner pays a sum of Rs.77,000/- and odd on or before 28.02.2006, failing which, the contract awarded to the petitioner on 23.3.2005 shall stand terminated and in that event, it is open to the fifth respondent to take fresh steps to part with the right to run the Weekly Bazar, Dainik Hatari (Daily market) and Cycle/Motor Cycle Stand in accordance with.

3. In the facts and circumstances of the case, the parties shall bear their respective costs.

Sd/-
Chief Justice
Judge

Arjani